

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

NANYA TECHNOLOGY CORP. and
NANYA TECHNOLOGY CORP. U.S.A.,

Plaintiffs,

vs.

FUJITSU LIMITED and FUJITSU
MICROELECTRONICS AMERICA, INC.,

Defendants.

Civil Case No. 06-00025

ORDER

On May 1, 2007, defendant Fujitsu Microelectronics America, Inc. ("FMA") filed a Motion to Compel Immediate Substantive Responses to FMA's Jurisdictional Discovery Requests (the "Motion"). (Docket No. 228.) Therein, FMA requested that the court compel the Plaintiffs to immediately provide substantive responses to certain jurisdictional discovery requests propounded by FMA. As required by Local Rule LR 37.1, FMA also filed a stipulation which specified separately and with particularity each issue that remained to be determined and the contentions and points and authorities of each party. (Docket No 229.) Having reviewed the stipulation, the court believes no further hearing on the Motion is necessary.

DISCUSSION

On December 5, 2006, FMA filed a Motion to Dismiss, Motion for More Definite Statement, and Motion to Transfer to the Northern District of California.¹ (Docket No. 74.) In

¹ Said motion is scheduled for hearing on June 22, 2007.

1 anticipation of the hearing on said motion, the parties entered into a stipulation (the
2 “Stipulation”) (Docket No. 148), which provided the following:

- 3 • The Defendants agreed to produce documents responsive to the jurisdictional
4 discovery requests Plaintiffs have served, with FMA producing its responsive
5 documents by April 2, 2007, and Fujitsu Limited producing its responsive
6 documents by April 16, 2007. See Stipulation, Docket No. 148 at ¶3.
- 7 • So as to permit time for the Defendants to produce the documents responsive to
8 the Plaintiffs’ jurisdictional requests and for the Plaintiffs to review said
9 documents, the Plaintiffs would file their oppositions no later than May 15, 2007,
10 while the Defendants would file a reply thereto on or before May 31, 2007. See
11 Stipulation, Docket No. 148 at ¶6.

12 FMA contends that the Plaintiffs are being unreasonable in objecting and refusing to
13 provide any information responsive to the discovery requests propounded by FMA. The
14 Plaintiffs essentially object to providing the information at this time, claiming the discovery
15 requests are “premature because it seeks information that is the subject of [the] Plaintiffs’
16 Response, which . . . is not due until May 15, 2007.” The court concurs.

17 While FMA contends that the Stipulation provided for a mutual exchange of documents
18 related to jurisdictional discovery requests, the language of the Stipulation contradicts this
19 assertion. The Stipulation specifically addresses the deadline for the Defendants to provide the
20 Plaintiffs with responses to the Plaintiffs’ jurisdictional discovery requests. The Stipulation is
21 silent as to any jurisdictional discovery the Plaintiffs are to provide the Defendants. If FMA
22 wanted a mutual exchange of documents, then it should have included such a provision in the
23 Stipulation. It did not do so, and the court will not read such a requirement into the Stipulation.

24 The court agrees that the Plaintiffs do not have to “tip their hand” by giving FMA an
25 early look at the basis it will rely upon to oppose the FMA’s motion to dismiss. To require such
26 premature disclosure would be prejudicial to the Plaintiffs as it would give FMA an unfair

27 ///

28 ///

1 advantage. Accordingly, the court DENIES FMA's motion to compel. The Plaintiffs, however,
2 must provide responses to FMA's jurisdictional discovery requests once it has filed its
3 opposition brief on May 15, 2007.



4
5 /s/ Frances M. Tydingco-Gatewood
6 Chief Judge
7 Dated: May 11, 2007
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28